

REMARKS

This Amendment is being filed in response to the Office Action mailed on September 16, 2009, which has been reviewed and carefully considered. Reconsideration and allowance of the present application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1, 4-10 and 12 remain in this application, where claims 3 and 11 had been previously canceled without prejudice, claim 2 has been currently canceled without prejudice, and claim 11 has been currently added. Claim 1 is independent.

In the Office Action, claims 1-11 are rejected under 35 U.S.C. §103(a) over U.S. Patent No. 5,764,619 (Nishiuchi) in view of U.S. Patent Application Publication No. 2002/0006105 (Usami). Applicants respectfully traverse and submit that claims 1, 4-10 and 12, as amended, are patentable over Nishiuchi and Usami for at least the following reasons.

Nishiuchi is directed to an optical information recording medium having at least two information layer and guide grooves for

tracking. A first information layer, formed by a thin film for reflecting a portion of a light beam made incident on the first substrate and permitting penetration of a portion of the light beam, is formed on a surface of the first substrate. A second information layer having a reflectance higher than that of the first information layer is formed on a surface of a second substrate. As correctly noted on page 4, lines 3-4 of the Office Action, Nishiuchi does not disclose or suggest that the "first L0 guide groove has a depth  $G_{L0}$  in the range  $25 \text{ nm} < G_{L0} < 40 \text{ nm}$ ," as recited in independent claim 1. Usami is cited in an attempt to remedy the deficiencies in Nishiuchi.

Usami is directed to an optical data recording medium having a single recording layer. The Usami recording medium has a transparent substrate in which a pre-groove having a depth of 20 to 100 nm and a width of 400 to 630 nm is formed. (See paragraphs [0009]-[0010]) A single dye recording layer is provided having a thickness at a groove portion of 50 to 160 nm and a thickness at a land portion of at least 80% of the thickness at the groove portion.

It is respectfully submitted that Nishiuchi, Usami, and combination thereof, do not disclose or suggest the present invention as recited in independent claim 1 which, amongst other patentable elements, recites (illustrative emphasis provided):

wherein the first  $L_0$  guide groove has a depth  $G_{L_0}$  in the range  $25 \text{ nm} < G_{L_0} < 40 \text{ nm}$ , and the first reflective layer comprises a metal and has a thickness  $> 50 \text{ nm}$ , and wherein the first  $L_0$  guide groove has a full half maximum width  $W_{L_0} < 350 \text{ nm}$ .

The particular combination of the groove depth  $G_{L_0}$  and the groove width  $W_{L_0}$ , namely,  $25 \text{ nm} < G_{L_0} < 40 \text{ nm}$  and  $W_{L_0} < 350 \text{ nm}$ , is nowhere disclosed or suggested in Nishiuchi, Usami, and combination thereof. Rather, Nishiuchi discloses on column 47 line 45 that the groove depth is 50nm, without a corresponding groove width. Further, Nishiuchi specifically recited on column 20, lines 29-30 a pit width  $W_{L3}$  of 300nm and a depth of 90nm. In addition, Usami discloses a pre-groove having a depth of 20 to 100 nm, with a width of 400 to 630 nm, as recited in paragraphs [0009]-[0010]. There is no apparent reason in the prior art for one skilled in the art to suggest a multi-stack optical data storage medium having the particular groove recited in independent claim 1, namely a groove

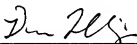
having a depth  $G_{L0}$  of 25 nm <  $G_{L0}$  < 40 nm **and** a width of  $W_{L0}$  < 350 nm.

Accordingly, it is respectfully requested that independent claim 1 be allowed. In addition, it is respectfully submitted that claims 4-10 and 12 should also be allowed at least based on their dependence from amended independent claim 1.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

In view of the above, it is respectfully submitted that the present application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

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